

House Bill 298 (AS PASSED HOUSE AND SENATE)

By: Representatives Hembree of the 67th, Ehrhart of the 36th, Martin of the 47th, and Smith of the 113th

A BILL TO BE ENTITLED

AN ACT

1 To amend provisions of the Official Code of Georgia Annotated, relating to education; to
2 amend Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating
3 to scholarships, grants, and loans, so as to allow the Georgia Higher Education Assistance
4 Corporation and the Georgia Student Finance Authority to exercise powers possessed by
5 private corporations performing similar functions; to increase the amount of bonds that the
6 Georgia Student Finance Authority may issue; to provide the Georgia Student Finance
7 Authority with collection tools to collect unpaid service cancelable loans that are in cash
8 repayment status; to provide the Georgia Student Finance Commission with collection tools
9 to collect unpaid HOPE scholarship and grant funds; to amend Chapter 15 of Title 20 of the
10 Official Code of Georgia Annotated, relating to the Georgia Medical Center Authority, so
11 as to change certain provisions relating to establishment of the authority, appointment of
12 members, terms of office, vacancies, removal from office, compensation, authority's
13 existence, accountability of members, and assignment; to provide for related matters; to
14 repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to
18 scholarships, grants, and loans, is amended by striking subparagraph (JJ) of paragraph (1) of
19 Code Section 20-3-266, relating to powers and duties of the Georgia Higher Education
20 Assistance Corporation, and inserting in lieu thereof a new subparagraph (JJ) to read as
21 follows:

22 "(JJ) To do any and all things necessary, desirable, convenient, or incidental for the
23 accomplishment of the objectives of this chapter and to exercise any power usually
24 possessed by private corporations performing similar functions which is not in conflict
25 with the public purposes of the corporation or the Constitution and laws of this state,
26 including, but not limited to:

- (i) The power to retain accounting and other financial services;
- (ii) The power to purchase all kinds of insurance, including, without limitation, insurance against tort liability and against risks of damage to property;
- (iii) The power to indemnify and hold harmless any parties contracting with the corporation or its agents from damage to persons or property; and
- (iv) The power to act as a self-insurer with respect to any loss or liability and to create insurance reserves;".

SECTION 2.

Said article is further amended by striking subparagraph (W) of paragraph (1) of Code Section 20-3-316, relating to the powers and duties of the Georgia Student Finance Authority, and inserting in lieu thereof a new subparagraph (W) to read as follows:

“(W) To do any and all things necessary, desirable, convenient, or incidental for the accomplishment of the objectives of this chapter and to exercise any power usually possessed by private corporations performing similar functions which is not in conflict with the public purposes of the authority or the Constitution and laws of this state, including, but not limited to:

(i) The power to retain accounting and other financial services;

(ii) The power to purchase all kinds of insurance, including, without limitation, insurance against tort liability and against risks of damage to property;

(iii) The power to indemnify and hold harmless any parties contracting with the authority or its agents from damage to persons or property; and

(iv) The power to act as a self-insurer with respect to any loss or liability and to create insurance reserves; and”.

SECTION 3.

Said article is further amended by striking subsection (a) of Code Section 20-3-344, relating to issuance of bonds and notes of authority, and inserting in lieu thereof a new subsection (a) to read as follows:

“(a) The authority is authorized to provide for the issuance of bonds of the authority not to exceed ~~\$150~~ \$300 million aggregate principal amount outstanding at any one time excluding bonds issued to refund outstanding bonds of the authority to carry out and effectuate its purposes and powers under this subpart. In anticipation of the issuance of such bonds, the authority also is authorized to provide for the issuance of notes. Such bonds or notes may be issued at one time or from time to time, provided the aggregate principal amount of such bonds and notes outstanding at any one time shall not exceed the amount authorized by this subsection, excluding bonds or notes issued to refund

1 outstanding bonds or notes of the authority. The principal of, premium, if any, and the
2 interest on such bonds or notes shall be payable solely from the funds provided for in this
3 subpart for such payment. Any such notes may be made payable from the proceeds of
4 bonds or renewal notes, or in the event bond or renewal note proceeds are not available,
5 such notes may be paid from revenues or assets available to the authority for this purpose
6 under this subpart in accordance with resolutions or other agreements with holders of any
7 outstanding bonds or other obligations of the authority. The bonds or notes of each issue
8 shall be dated, shall bear interest at such rates, may be redeemable before maturity at the
9 option of the authority at such price or prices as may be determined by the authority, and
10 shall be under such other terms and conditions as may be determined by the authority.
11 Notes shall mature at such time or times, not exceeding five years from their date or dates,
12 and bonds shall mature at such time or times, not exceeding 40 years from their date or
13 dates, as may be determined by the authority. The authority shall determine the form of
14 such bonds or notes, including coupon form, registered form, registration as to principal
15 only, or all of the foregoing forms, and shall determine the right of reconversion or
16 interchange into other forms. The authority shall fix the denomination or denominations
17 and the place or places of payment of principal and interest, which may be any bank or trust
18 company within or outside the state. All such bonds shall be executed in the name of the
19 authority by the chairperson and the secretary of authority and shall be sealed with the
20 official seal of the authority or a facsimile thereof. Coupons shall be executed in the name
21 of the authority by the chairperson of the authority. The facsimile signature of either the
22 chairperson or the secretary of the authority may be imprinted in lieu of the manual
23 signature if the authority so directs and the facsimile of the chairperson's signature shall
24 be used on coupons. In case any officer whose signature or a facsimile of whose signature
25 shall appear on any bonds or notes or coupons attached thereto shall cease to be such
26 officer before the delivery thereof, his or her signature or facsimile signature shall
27 nevertheless be valid and sufficient for all purposes as if he or she had remained in office
28 until such delivery. The authority may also provide for the authentication of the bonds or
29 notes by a trustee or fiscal agent. Prior to the preparation of definitive bonds, the board of
30 directors may issue interim receipts, interim certificates, or temporary bonds exchangeable
31 for definitive bonds upon the issuance of the latter. The authority may also provide for the
32 replacement of any bond which shall become mutilated or be destroyed or lost. Such
33 revenue bonds may be issued without any other proceedings or the happening of any other
34 conditions or things than those proceedings, conditions, and things which are specified or
35 required by this part. Upon the approval of a resolution of the authority authorizing the
36 sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public

1 or private sale, and for such price as the authority shall determine to be in the best interests
2 of the authority and to effectuate best its purposes under this subpart."

3 SECTION 4.

4 Said article is further amended by striking subsection (c) of Code Section 20-3-374, relating
5 to service cancelable loan fund, and inserting in lieu thereof a new subsection (c) to read as
6 follows:

7 "(c) All students receiving loans under this Code section shall execute, prior to the
8 disbursement of any loan proceeds to or for the benefit of that student, a promissory note
9 containing the terms and conditions of the service repayment and cash repayments. Except
10 as prohibited by federal or other state laws, individuals that fail to fulfill the terms and
11 conditions of cash repayment may, without judicial action, be subject to garnishment of
12 their pay, loss of a professional license, offset of lottery winnings, and offset of a state tax
13 refund in accordance with rules and regulations promulgated by the authority not
14 inconsistent with the provisions of this part."

15 SECTION 5.

16 Said article is further amended by striking subsection (b) of Code Section 20-3-519.11,
17 relating to Georgia Student Finance Commission, and inserting in lieu thereof a new
18 subsection (b) to read as follows:

19 "(b) Notwithstanding any provision of this part, the Georgia Student Finance Commission
20 is authorized to promulgate rules and regulations restricting eligibility for the scholarships
21 and grants described in this part or reducing the dollar amount of scholarships and grants
22 described in this part in accordance with the provisions of Code Section 50-27-13. In
23 addition to other remedies available at law and equity, the Georgia Student Finance
24 Commission is authorized to enter into repayment agreements with students that owe
25 refunds to the Georgia Student Finance Commission of any scholarship or grant described
26 in this part. Except as prohibited by federal or other state laws, individuals that owe
27 refunds and fail to enter into repayment agreements with the Georgia Student Finance
28 Commission are, without judicial action, subject to garnishment of their pay, loss of a
29 professional license, offset of lottery winnings, and offset of a state tax refund in
30 accordance with rules and regulations promulgated by the Georgia Student Finance
31 Commission not inconsistent with the provisions of this part. As used in this subsection,
32 the term 'refund' shall mean scholarship and grant amounts paid to or on behalf of students
33 subsequently, in accordance with rules and regulations promulgated by the Georgia Student
34 Finance Commission, determined to be ineligible to receive such funds."

SECTION 6.

Chapter 15 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia Medical Center Authority, is amended by striking Code Section 20-15-3, relating to establishment of the authority, appointment of members, terms of office, vacancies, removal from office, compensation, authority's existence, accountability of members, and assignment and inserting in lieu thereof the following:

"20-15-3.

(a) There is created a body corporate and politic to be known as the Georgia Medical Center Authority which shall be deemed to be an instrumentality of the State of Georgia and a public corporation; and by that name, style, and title such body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of this state.

~~(b) The authority shall consist of 15 members. Eleven members shall be appointed by the Governor for staggered initial terms of office as follows: four members for two years, and seven members for three years. Two members shall be appointed by the Speaker of the House of Representatives to serve initial terms of office of two years and two members shall be appointed by the President of the Senate to serve initial terms of office of two years. The authority shall consist of seven members as follows:~~

(1) Those persons appointed to the authority prior to July 1, 2005, and serving for terms to expire in June, 2006, shall continue to serve for the remainder of the terms to which they were appointed;

(2)(A) In 2005 and quadrennially thereafter, the Governor shall appoint two members.

(B) In 2006 and quadrennially thereafter, the Governor shall appoint three members;

(3) In 2005 and quadrennially thereafter, the Senate Committee on Assignments shall appoint one member; and

(4) In 2006 and quadrennially thereafter, the Speaker of the House of Representatives shall appoint one member.

~~After their initial terms of office, members~~ Except as otherwise provided by paragraph (1) of this subsection, members shall serve for terms of office of four years each. ~~Members shall serve for the terms of office specified and until the appointment and qualification of their respective successors. No person may be appointed as a member of the authority unless that person has been a resident of this state for at least two years and is at least 21 years of age.~~ Any elected or appointed state, county, municipal, or school board official or employee, except members of the board of regents and officials and employees of the legislative or judicial branches of state government, are authorized to be appointed as members of the authority, and any person so appointed is authorized to serve as a member of the authority.

(c) All successors shall be appointed in the same manner as original appointments. Members may be eligible for reappointment. Vacancies in office shall be filled in the same manner as original appointments. An appointment to fill a vacancy shall be for the unexpired term. The authority shall elect its own officers. A majority of the membership of the authority ~~constitutes~~ shall constitute a quorum. No action shall be taken by the authority except in the presence of a quorum and upon approval of a majority of those members present. No vacancy on the authority shall impair the right of the quorum to exercise all rights and perform all duties of the authority. The authority shall otherwise provide for its own organization and conduct of business according to *Robert's Rules of Order*.

(d) The Governor, after notice and opportunity for hearing, may remove from office any member of the authority for any of the following reasons:

- (1) Inability or neglect to perform the duties required of members;
- (2) Failure to attend, without prior approval of the chairperson of the authority, four consecutive regularly scheduled meetings of the authority;
- (3) Incompetence; or
- (4) Dishonest conduct.

(e) The members of the authority shall receive a daily expense allowance and reimbursement for transportation costs as provided for in Code Section 45-7-21; and the members of the authority shall not receive any other compensation for their services as such.

(f) The authority shall have perpetual existence. Any change in name or composition of the authority shall in no way affect the vested rights of any person under this chapter or impair the obligations of any contracts existing under this chapter.

(g) The members of the authority shall be accountable in all respects as trustees. The authority shall keep suitable and proper books and records of all receipts, income, and expenditures of every kind and shall submit for inspection all the books, together with the proper statement of the authority's financial position, to the state auditor.

(h) The authority is assigned to the Department of ~~Community Affairs~~ Economic Development for administrative purposes only."

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.